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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,773	02/28/2005	Neville Ernest Lange	3003-1049-1	9946

466 7590 09/04/2007  
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ARLINGTON, VA 22202

EXAMINER
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SOOHOO, TONY GLEN

ART UNIT	PAPER NUMBER
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1723

MAIL DATE	DELIVERY MODE
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09/04/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/525,773

Applicant(s)

LANGE ET AL.

Examiner

Tony G. Soohoo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 38-72 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 28-42, 45-56 and 60-72 is/are rejected.
- 7) ☒ Claim(s) 43, 44 and 57-59 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date FEB05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Priority*

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 71 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 71 points out that details to the operation of the flow rate and narrative in pointing out the step of controlling "accordingly" which suggests a method step. However the claim does not present sufficient structure or positively control a device to "sense" or to "control". The claim is narrative in operation. The claim language has been considered and deemed to intended use not been afforded any further structural claim to the limitation of a controller or sensor.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. Claims 38-42, 45-56, 60-64, 66-69, 71-72 are rejected under 35 U.S.C. 102(b) as being anticipated by Palmer 5765945.

Palmer discloses a vessel 12, with a supply duct 26, figure 3, with jets at 32, 33, especially figure 4, which is directs liquid transversely the vertical axis of the supply duct 26, and an outlet duct about A, 49, 46, 42, 52, 53, 17. and th inlet ent at A, 49 is protected by the flange 31 located between the jets from 33 and the opening of the outlet duct at 49. Note the outlet duct is coaxial to the supply duct 26; the flange is fitted about the supply duct 26 and assists in directing fluidized material between the under side of the flange 31 and the opening (inlet) of the outlet at A, 49, and is of a diameter of at least equal to that of the adjacent end outlet duct diameter, and is adjustable in distance between the outlet duct and the flange when the flange member pivots as seen in figure 4; the supply/outlet duct is substantially cylindrical and parallel to one another and the outlet duct varies in diameter as seen in the size of 49, 46, 52, and 17 and narrower at 49 than 46; having a housing generally inclusive of 13, 50, 47, 45 with a body portion 45 about the outlet duct to form an aperture and fitting; whereby the both ducts have an horizontal portion 17, 16, 15 to form an L shaped portion; has a cap 30 at the end of the outlet end of the supply duct with slots 33 of the vessel 12 which has a lid 21 which may provide for an open or closed pot. The operation provides supply liquid from the supply 26 to form jets as seen in figure 4 which is transverse to the vertical axis of the supply duct and fluidized material is removed at the outlet duct at 49 which the flange member 31 which operates

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and diverts material past the underside of the flange member and down the tube 26 to the inlet end 49 of the outlets duct 46, 42.

With regards to claim 71 it is noted that the outlet duct may be structurally sensed and controlled if so desired to operate in such a manner. The claim has not been afforded the structural elements of a sensor or controller since the claim has not positively pointed out such structural limitations.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 65 and 70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Palmer 5765945 in view of Maciula et al 3776385.

8. The Palmer reference discloses all of the recited subject matter as defined within the scope of the claims with the exception of the additional element of a hydroclone, or pressure-reducing cyclone attached to the fluidizer container vessel so that the fluidized material output from the outlet duct may be further processed with a different manipulative operation. It is noted that at the end of the outlet duct, the apparatus has completed its function. The hydroclone or pressure reducing cyclone provides a different processing effect to that the fluidizing apparatus and adds a new processing feature the apparatus system. The reference to Maciula et al teaches that the a

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hydroclone 17 may for used for further processing of fluids to provide a separation of solids from the liquids.. It is noted that the device of Maciula is also deemed as inherently operating as a cyclone device which would reduce pressure. Whereas the Maciula reference teaches to a person having ordinary skill in the art that one may utilize a hydroclone to provide further added processing to a fluid, and whereby the device of Palmer has fully satisfied is operation of its device at the output duct, it is deemed that it would have been obvious to one of ordinary skill in the art to provide the hydroclone of Maciula to the outlet duct of the Palmer device so that one may provide a further processing effects to the outlet duct fluids as so desired by the user. In this case, one may separate the solids from the liquids, while inherently providing reducing the pressure device at the outlet duct.

#### ***Allowable Subject Matter***

9. Claims 43-44, and 57-59 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

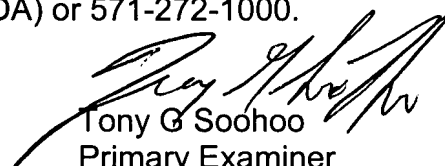
10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Thompson 3868226, Buhner 3420925, Huttlin 4736895, Gatchet 2613922, and Humkey et al 3807705.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony G. Soohoo whose telephone number is (571) 272 1147. The examiner can normally be reached on 8AM-5PM, Tue-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David R. Sample can be reached on 571-272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Tony G Soohoo  
Primary Examiner  
Art Unit 1723